IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 7TH NOVEMBER 2007 / 16TH KARTHIKA 1929

Bail Appl..No. 6761 of 2007()

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CRIME NO.104/07 OF MAVOOR POLICE STATION

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PETITIONERS/ACCUSED

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1. P.USMAN @ ISMAIL, S/O. ASSAINAR,
   KOONAMBALATH MEETHAL, PALAZHI, KOZHIKODE TALUK.

2. VAHEEDA, W/O. USMAN @ ISMAIL,
   RESIDING -DO-

BY ADV. SRI.T.G.RAJENDRAN

RESPONDENTS: COMPLAINANT/STATE

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1. THE SUB INSPECTOR OF POLICE,
   MAVOOR POLICE STATION.

2. STATE, REP. BY
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

**R. BASANT, J.**

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**B.A. No. 6761 OF 2007**

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**Dated this the 7th day of November, 2007**

**ORDER**

Application for anticipatory bail. The petitioners are the husband of the de facto complainant and his 1st wife. While the marriage between the petitioners was subsisting, the second marriage was contracted by the 1st petitioner with the de facto complainant on 13/1/07. The crime has been registered alleging the commission of the offences punishable under Secs.498A and 420 of the IPC. The crime was registered on the basis of a private complaint filed by the de facto complainant and referred to the police by the learned Magistrate under Sec.156(3) of the Cr.P.C. It is alleged that the petitioners are guilty of matrimonial cruelty of the culpable variety against the de facto complainant.

2. The marriage took place on 13/1/07. The de facto

complainant was aware of the earlier marriage and the children in the earlier marriage when she agreed for the second marriage. There is some strain in the marriage. On account of that, vexatious and exaggerated allegations are now being raised against the petitioners by the de facto complainant, submits the learned counsel for the petitioners. It is prayed that the petitioners may, in these circumstances, be granted anticipatory bail.

3. The learned Public Prosecutor does not oppose the prayer for anticipatory bail. The learned Public Prosecutor concedes that there is no physical injury consequent to the physical cruelty allegedly inflicted on the de facto complainant. I am satisfied that the petitioners can be granted anticipatory bail.

4. In the result, this petition is allowed. Following directions are issued under Sec.438 of the Cr.P.C:

(i) The petitioners shall appear before the learned Magistrate having jurisdiction at 11 a.m. on 14/11/07. They shall be released on regular bail on their executing bonds for Rs.25,000/- each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(ii) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m.

and 3 p.m. on 15/11/07 and 16/11/07 and thereafter on all Mondays and Fridays between 10 a.m. and 12 noon for a period of one month. Subsequently, they shall so make themselves available for interrogation before the Investigating Officer as and when directed by the Investigating Officer in writing to do so.

(iii) If the petitioners do not appear before the learned Magistrate as directed in clause (i), directions issued above shall thereafter stand revoked and the police shall be at liberty to arrest the petitioners and deal with them in accordance with law as if these directions were not issued at all;

(iv) If the petitioners were arrested prior to their surrender on 14/11/07 as directed in clause (i) above, they shall be released on their executing bonds for Rs.25,000/- each without any sureties undertaking to appear before the learned Magistrate on 14/11/07.

**Sd/-**
**(R. BASANT, JUDGE)**

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**//true copy//** **P.S. to Judge**